

Environmental Analysis  
Merritt Jr. Pipeline and Storage Construction  
NM-060-2004-117  
Allotment #63016  
Bureau of Land Management  
Roswell Field Office  
Roswell, New Mexico  
June 4, 2004

Location:

T. 2 S., R. 19 E.  
Section 22 NE 1/4  
Section 23 SW 1/4  
Lincoln County  
New Mexico Principal Meridian

## I. INTRODUCTION

### Need For the Proposed Action

The need for the proposed action is to provide a water development system with the construction of approximately 1.0 mile of 1 ¼' pvc pipeline, and the establishment of 1 tub along with one 10,000 gallon storage tank on public land, to provide permanent water for livestock and wildlife within the Nester Pasture of Allotment 63016. The allottee will install the pipeline and tub and will provide the drinking tub on public land in addition to the construction of one half mile of pipeline on private land, connecting to the Nester Well. The tub would be adjacent to an existing dirt tank, and will serve to make water more reliable at this location. BLM will install the 10,000 gallon storage.

Existing fences, water developments, and other range improvements needed to implement grazing systems or other management plans were incorporated or new ones were designed during specific management plan development. Other range improvements may be addressed as the need becomes apparent on allotments without documented allotment management plans. No Allotment Management Plan is currently on file for this allotment with the Bureau of Land Management.

Range fencing and water developments facilitate the handling of and caring for livestock. The location of water developments on rangeland is important in controlling the movement, distribution, and concentrations of livestock. Reliable water supply would lessen the distance wildlife and livestock have to travel between forage and available water

Conformance with Land Use Plans: The proposed activity is addressed as part of the Roswell Resource Management Plan (October, 1997).

Relationship to Statutes, Regulations, or Other Plans: The construction of pipelines and water developments as range improvements, either under Cooperative Agreement or Range Improvement Application is addressed under the 43 Code of Federal Regulations, Parts 4100, Grazing Administration, Exclusive of Alaska., Subpart 4120.3

Other Statutes, Regulations or Plans are:

The Taylor Grazing Act of 1934, as amended (43 U.S.C. 315 (a)-(r))

The Federal Land Policy and Management Act of 1976, as amended (Pub. L. 94-579, 43 U.S.C. 1702 et seq), Sections 302 (a) & (b), Section 502 (a) & (c)

The Public Rangelands Improvement Act of 1978, as amended (Pub. L. 95-514, 43 U.S.C. 1901 et seq),

The National Environmental Policy Act of 1969, as amended (Pub. L., 91-190, 42 U.S.C. 4321-4347) Sec. 101

## II. PROPOSED ACTION AND ALTERNATIVES

### A. Proposed Action

The proposed action is the construction of a buried water pipeline (approximately 1.04 miles of 1 ¼", 200 psi pipeline on public land) and installation of two drinking troughs and one 10,000 gallon storage within the pasture in order to provide consistent and reliable water distribution

The pipeline system, tub and storage will be constructed using the standard construction methods.

No other pipelines are currently planned on the ranch. The location of the proposed water development is T. 2 S., R. 19 E., Sections 22 and 23, Lincoln County, New Mexico Principal Meridian.

The pipeline, tub and storage will be located on public and private surface and will be constructed under a Cooperative Range Improvement Agreement. The allottee will be responsible for the material and construction of 0.5 miles of pipeline on private land, in addition to the installation of the pipeline and tub on public surface. (See attached Map). The BLM will install the storage.

Standard measures that will be included in the authorization for these projects are:

No blading will occur on public land, unless authorized by the Authorized Officer.

Water would be provided yearlong to all drinking troughs located on public land for wildlife purposes, when livestock are not in the pasture. Wildlife escape ladders would be installed in all drinkers.

Livestock drinking troughs would not exceed 18" in height.

The co-operator shall not use the pipeline route as a road for purposes other than routine maintenance as determined necessary by the Authorized Officer in consultation with the co-operator. The co-operator shall take whatever steps are necessary to ensure that the pipeline route is not used as a roadway.

Vegetation, soil, and rocks left as a result of construction or maintenance activity shall be randomly scattered over the project area and shall not be left in rows, piles, or berms, unless otherwise approved by the Authorized Officer. A berm shall be left over the ditch line to allow for settling back to grade.

No road is authorized as a part of this project for construction or maintenance.

Brush will be cleared by hand with hand tools.

The co-operator shall indemnify the United States against any liability for damage to life or property arising from the occupancy or use of public land under this authorization.

Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the co-operator/contractor or any person working on the co-operator's/contractor behalf, on public or Federal land shall be immediately reported to the authorized officer. The co-operator/contractor shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the Authorized Officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the

loss of significant cultural or scientific values. The co-operator/contractor shall be responsible for the cost of evaluation and any decision as to the proper mitigation measures will be made by the Authorized Officer after consulting with the co-operator/contractor.

The co-operator/contractor is hereby obligated to comply with procedures established in the Native American Grave Protection and Repatriation Act (NAGPRA) to protect such cultural items as human remains, associated funerary objects, sacred objects, and objects of cultural patrimony discovered inadvertently during the course of the implementation. In the event that any of the cultural items listed above are discovered during the course of project work, the proponent shall immediately halt the disturbance and contact the BLM within 24 hours for instructions. The proponent or initiator of any project shall be held responsible for protecting, evaluating, reporting, excavating, treating, and disposing of these cultural items according to the procedures established by the BLM in consultation with Indian Tribes.

The co-operator/contractor shall be responsible for maintaining the site in a sanitary condition at all times; waste materials at those sites shall be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment.

The approval of the Permit/Agreement does not convey the right to prevent other lawful uses from occurring. The applicant/cooperator understands that other lawful users with proper authorizations may pass over, under, or through the range improvement authorized by the Permit/Agreement. Appropriate stipulations by the BLM to other users will protect the stability and purpose of this improvement.

## 2. Alternatives

### 1. **No Action - Alternative 1**

This alternative would leave the water supply as is. By not constructing the pipeline, the water supply to the north side of the pasture would remain unreliable, only available after rain events. Construction of the pipeline and establishment of the two troughs on the north side of the pasture would allow the allottee to move livestock from one side of the pasture to the other, reducing constant impact on the south side of the pasture.

### 2. **Locate Elsewhere - Alternative 2**

This alternative would re-route the entire proposed water development. The alternatives would: a. add length to the pipeline; b. would cause more impact to the affected resources on the alternate route or c. would not be economical to install, maintain or use. To re-route the pipeline would cause a concentration of the livestock use to one side of the pasture or the other.

This alternative will not be given further consideration in this report; fewer environmental impacts would result from the action as proposed.

## III. AFFECTED ENVIRONMENT

### General Setting

The affected environment of the area is generally discussed in the Roswell Resource Management Plan (Oct. 1997). Only those resources actually impacted by the proposed action will be addressed in this document.

The proposed water development is to be located on the Merritt Ranch, Nester/Buck Allotment 63016. The Nestor/Buck Allotment is located approximately fifty-five miles north and west of Roswell, lying on the south side of Highway 247, Corona Highway and west of US Highway 285

The major regional industries are ranching, with some oil and gas development, as well as seasonal hunting.

### Affected Resources

The critical elements of ACEC's, Air Quality, Prime or Unique Farmlands, Floodplains, Native American Religious Concerns, Hazardous or Solid Wastes, Water Quality, Wetland and Riparian Zones, Wild and Scenic Rivers, Threatened/Endangered Species, Low Income/Minority Populations and Wilderness will not be affected. A cultural clearance was completed for the pipeline, tub and storage on August 26, 2003, no artifacts or other cultural sites were found.

**Soils:** The project area for the Nestor/Buck water development includes the Pastura Loam, gently sloping. Elevations are from 4,600 to 6,500 feet. The Pastura loam is found on the uplands with slopes from 0 to 15 percent. The Pastura soil is shallow to very shallow and well drained. It is formed in alluvium derived dominantly from limestone. Permeability of the Pastura soil is moderate with an effective rooting depth of 5 to 20 inches. Available water capacity is very low, runoff is rapid and the hazard of water erosion is high as is the hazard of soil blowing. Other soils that are generally noted intermingled with the Pastura loam include Harvey and Darvey soils on valley sides, Gabaldon soils on valley floors, rock outcrops on ridges and an occasional sinkhole, although no sinkholes are noted within the project area. The rock outcrops are areas of exposed limestone, supporting little if any vegetation.

**Vegetation:** The pipeline area predominately fits the Shallow CP-3 Range Site description. The vegetation for these sites at climax (potential) includes grasses such as black grama, sideoats, little bluestem, blue grama, bottlebrush squirreltail and hairy grama. The shrub component includes juniper, pinon, algerita, winterfat and 4-wing saltbush, while forbs such as buckwheat, indian paintbrush, wooly indian wheat and penstemmon occur.

**Invasive, Non-Native Species:** There are currently no known Non-native, Invasive species in the immediate area of the proposed fence construction area. Infestations of noxious weeds can have a disastrous impact on biodiversity and natural ecosystems. Noxious weeds affect native plant species by out-competing native vegetation for light, water and soil nutrients. Noxious weeds cause estimated losses to producers \$2 to \$3 billion annually. These losses are attributed to: (1) Decreased quality of agricultural products due to high levels of competition from noxious weeds; (2) decreased quantity of agricultural products due to noxious weed infestations; and (3) costs to control and/or prevent the noxious weeds.

Further, noxious weeds can negatively affect livestock and dairy producers by making forage either unpalatable or toxic to livestock, thus decreasing livestock productivity and potentially increasing producers' feed costs and animal health care costs. Increased costs to operators are eventually borne by consumers.

Noxious weeds also affect recreational uses, and reduces realty values of both the directly influenced and adjacent properties.

Recent federal legislation has been enacted requiring state and county agencies to implement noxious weed control programs. Monies would be made available for these activities from the federal government, generated from the federal tax base. Therefore, all citizens and taxpayers of the United States are directly affected when noxious weed control prevention is not exercised.

**Visual:** The proposed route for the fence is contained in an area which is considered to be Class III Visual Resource Class Area. Class III allows for contrasts to the basic elements caused by a management activity may be evident and begin to attract attention in the landscape. Changes should remain subordinate in the existing landscape. However, every attempt would be made to minimize their impact of these activities through careful location, minimal disturbance, and repeating the basic elements of line form and color.

**Cave/Karst:** This project is located within the *High Karst (cave) Potential Area*. A complete significant cave or karst inventory has not been completed for the public land located in this grazing allotment. No significant caves or karst features have been identified within this area.

**Recreation:** Recreational pursuits are considered to be either facility-based or dispersed. The Roswell Field Office Area offers opportunities in both categories. Dispersed recreation occurs throughout the approximately 1.5 million surface acres of public land in the Resource Area. Recreational activities in the proposed action area are dispersed; the allotment has no facility-based recreational activities. Recreational activities are primarily hunting, caving and off highway vehicle use. Hunting is the most popular outdoor sport on public lands in southeast New Mexico. Hunting for big game, waterfowl, and upland birds is estimated to provide in excess of 267,122 visitor hours each year.

Legal and physical Access to public land located in this allotment are through state lands and county maintained roads. Off highway vehicle designation for public land within this allotment are classified as "Limited" to existing roads and trails. The majority of public land in this allotment can only be accessed by foot (hiking, or walking).

**Wildlife:** The project areas provide habitat for desert mule deer, pronghorn antelope, bobwhite, scaled quail, mourning dove, raptor species, and various non-game species.

There are no known threatened or endangered species of plant or animals on Allotment 63016. A list of federal threatened, endangered and candidate species reviewed for this EA can be found in Appendix 11 of the Roswell Approved RMP (AP11-2). There are no designated critical habitat areas within this allotment. The swift fox is a Federal Candidate species that may occupy or utilize the area; refer to the Biological Opinion (AP11-38) in the Roswell RMP for a detailed description of the range, habitats and potential threats.

#### IV. ENVIRONMENTAL IMPACTS

##### Impacts of the Proposed Action

The impacts from the proposed action would be made during the construction of the pipeline. Short-term negative impacts would include: vegetation disturbance would be localized to the immediate area of the project. Vegetation would be destroyed where the trench runs, but the disturbed area would naturally re-vegetate within two growing seasons with adequate precipitation. Approximately 12.13 acres of vegetation would be subject to disturbance during the construction of the pipeline, (based on the estimate of 2 miles \* 50 ft. width). Positive long-term impacts would include: vegetation would benefit from this project due to the reduced amount of stress caused by foraging animals. This would lower utilization levels around the current yearlong available water sources

Impacts from the proposed construction activity may cause temporary disruption of wildlife activity within the immediate vicinity of the project area during construction. . Development of water locations on the north side of the pasture would allow additional sources of water for wildlife use at one trough and making water more reliable at the second, as its location is adjacent to a dirt tank. There is sufficient wildlife habitat in the surrounding areas that would

minimize the impacts to wildlife. As water would become either additionally available or more reliable, wildlife could potentially benefit

No change in AUMs would result.

Soil disturbance would be localized to the immediate area of the project.

Visual impacts by the pipeline as proposed would be kept at a minimum by designing the lay of the pipeline along topographic lines as much as possible. Other visual impacts would be minimized as long as the standards are adhered to.

The construction of the pipeline may unintentionally contribute to the establishment and spread of noxious weeds. Noxious weed seed could be carried to and from the project areas by construction equipment and transport vehicles. The main mechanism for seed dispersion on the roads is by equipment and vehicles that were previously used and or driven across or through noxious weed infested areas. The potential for the dissemination of invasive and noxious weed seed may be elevated by the use of construction equipment typically contracted out to companies that may be from other geographic areas in the region. Washing and decontaminating the equipment prior to transporting onto and exiting the construction areas would minimize this impact.

Impacts by noxious weeds would be minimized due to requirements for the company to eradicate the weeds upon discovery. Multiple applications may be required to effectively control the identified populations.

Impacts from the proposed construction activity may cause temporary disruption of wildlife activity within the immediate vicinity of the project area during construction.

### Impacts of the Alternatives

Under the No Action alternative the water development would not be constructed, and the associated impacts of that construction would not occur.

### Mitigation Measures and Residual Impacts

**Mitigating Measures:** No additional mitigating measures will be needed if the standard operating procedures and design features previously discussed are adhered to.

**Residual Impacts:** Implementation of the proposed action or of the alternative of a different location would have the same potential for unavoidable temporary adverse environmental impacts.

**Cumulative Impacts:** The results of the proposed action will not substantially change the plant and animal communities of the project area; however, decreasing the utilization levels near the existing water locations should aid in attaining increased plant vigor. The proposed action would result in beneficial effects to the soil and animal life. Beneficial effects to the soil resource would appear in reduced soil compaction in areas of little slope. Livestock would benefit also by the more even distribution of water availability. Wildlife, such as bird species, would benefit by having additional water sources. The construction of the project as proposed would not affect the environment as a whole, but would be site specific in its effect. While as much as 18.2 acres of vegetation would be initially affected, this can be mitigated by allowing the site to naturally re-vegetate with receipt of normal precipitation. Therefore, the cumulative impact would not be significant when compared to existing disturbances created by heavy utilization of forage near existing water locations.

V. PERSONS OR AGENCIES CONSULTED

The following are people who have been consulted for their comments in regards to the proposed action in addition to the resource area specialists. The comments and suggestions expressed during the consultation have been incorporated into this EA.

Ron Merritt Jr. Allottee of Allotment #63016  
Roy Stovall, BLM Range Improvement Specialist

Prepared by:

/s/ Helen C. J. Miller  
Helen C.J. Miller, Rangeland Management Specialist

. 06/30/2004 .  
Date



# ENVIRONMENTAL ASSESSMENT CHECKLIST

EA Number: <b>NM-060-2004-117</b> Serial No.: <b>Allotment 63016</b> Preparer: <b>Helen C.J. Miller</b>			Action Type: <b>Pipeline, tub and Storage</b> Project Name: <b>Merritt, Jr. Pipeline</b>		
Resource / Activity	Not Present	Not Affected	**May Be Affected	Reviewer	Date
Air Quality*			X	/s/ Michael McGee Hydrologist	06/24/2004
Floodplains*	X				
Soils/Watershed			X		
Water Quality- Drinking/Ground*		X		/s/ Michael McGee Hydrologist/Geologist***	06/24/2004
Vegetation			√	/s/ <b>Joseph M. Navarro</b> Rangeland Management Spec	6/4/2004
Livestock Grazing		√			
Invasive, Nonnative Species*		√		/s/ <b>Joseph M. Navarro</b> Range Mgmt Spec/Nox. Weed Spec	6/4/2004
Wastes, Hazardous or Solids*	X			/s/T. R. Kreager Hazardous Waste Spec.	07/01/2004
Prime/Unique Farmlands*	X			Irene M. Gonzales Realty Specialist	6/7/2004
Lands/Realty/ROW			X		
Fluid Minerals		X		Armando Lopez Pet Eng/Geologist/Sur. Prot. Spec.	06/30/2004
Mining Claims		√		/s/ Jerry Dutchover	06/07/04
Mineral Materials	√			Geologist	
Threatened or Endangered Species*	√			/s/ Rand French	6/8/04
Wetlands/Riparian Zones*	√				
Wildlife Habitat			√	Wildlife Biologist	
Native American Religious Concerns*		X		Pat Flanary	6/08/04
Cultural Resources*		X		Archaeologist	
Areas of Critical Environmental Concern*	X			/s/ J. H. Parman	06/30/2004
Low Income & Minority Population Concerns		X		Planning & Env. Coordinator	
Wild/Scenic Rivers*	X			Bill Murry  Outdoor Recreation Planner/NRS	6/8/04
Wilderness*	X				
Cave/Karst Resources		X			
Outdoor Recreation		X			
Visual Resources		X			
Access/Transportation		X		/s/ Richard Hill Sur. Prot. Spec.	06/30/2004

\* "Critical Element" - must be addressed in all NEPA documents.

\*\* "Affected Element" - must be addressed in the attached Environmental Assessment.

\*\*\* "Hydrologist/Geologist" – Hydrologist will be the primary lead for "Water Quality- Drinking/Ground" with Resource projects such as fire, fuels, and grazing EA's etc... The Petroleum Geologist will be the primary lead for "Water Quality-

Drinking/Ground” with Minerals or oil and gas projects such as Application For Permit To Drill and Sundry Notices etc...

FINDING OF NO SIGNIFICANT IMPACT/ PROPOSED DECISION RECORD  
Merritt Jr. Water Development & Construction, EA NM-060-2004-117

FINDING OF NO SIGNIFICANT IMPACT: Based on the analysis of potential environmental impacts contained in the attached environmental assessment, I have determined the proposed action is not expected to have significant impacts on the environment and that preparation of an Environmental Impact Statement is not warranted.

DECISION: It is my decision to authorize the construction of the 1.5 miles of pipeline, and the establishment of 1 tub and one 10,000 gallon storage tank that will be placed on public land to insure water supply and availability of water and to maintain proper range management, on Allotment #63016, Nester/Buck Ranch.

Location of the pipeline is as follows:

Merritt Jr. Pipeline T. 2 S., R. 19 E., Sec. 22 NE 1/4 and Sec. 23 SW1/4  
All in Lincoln County, New Mexico Principle Meridian.  
(Please refer to the map in the Environmental Assessment.)

The surface protection procedures set forth in the proposed action have been incorporated into the Environmental Assessment. Any comments made to this proposed action were considered and addressed.

Actual construction of the pipeline will be done by the allottee; BLM will supply the materials for the pipeline and storage via an 8100 contract. Pipeline construction is normally accomplished during the summer months, June through September. The surface protection procedures set forth in the proposed action have been incorporated into the Environmental Assessment. Any comments made to this proposed action were considered and addressed.

Rationale for Recommendations: The decision to authorize the proposed action does not result in any undue or unnecessary environmental degradation. The action is consistent with planned actions presented in the Roswell Resource Management Plan, Oct, 1997.

In accordance with 43 Code of Federal Regulations, Part 4100, Sec 4160.2, any applicant, permittee, lessee or other affected interests may protest this proposed decision in person or in writing to the authorized officer, within 15 days after receipt of this decision. Please be specific in your points of protest.

The protection procedures for the proposed action are included in the Cooperative Agreement and are attached as stipulations. Any additional mitigation measures identified for the proposed action in the environmental impacts sections of the attached environmental assessment have been formulated into stipulation. This decision incorporated by reference the attached stipulations.

In addition to the addressee, this decision has been provided to:

Ron Merritt Jr.  
HC 66 Box 39  
Yeso, New Mexico 88136

New Mexico Department of Game & Fish  
c/o Roy Hayes  
1912 West Second  
Roswell, New Mexico 88201

Pursuant to the provisions of 43 CFR 4.21, 4.470 and 4160.4 you are allowed 30 days from the receipt of this Final Decision in which to file an appeal to the Field Office Manager and to those listed above for the purpose of a hearing before an Administrative Law Judge. Your appeal must state clearly and concisely in writing the reason(s) why you think the final decision is in error.

To receive consideration for staying the implementation of this decision, you must specify how you would be harmed if the stay were not granted. If a petition for stay is not granted, the decision will be put into effect following the 30-day appeal period. Appeals can be filed at the following address:

Field Office Manager  
Bureau of Land Management  
Roswell Field Office  
2909 West Second Street  
Roswell, NM 88201

In addition to filing at this address, those listed above must also be served copies of the appeal (43 CFR 4.470(a)).

/s/ T. R. Kreager  
T. R. Kreager, Assistant Field Office Manager, Resources

. 07/01/2004  
Date

## STIPULATIONS

1. No blading will occur on public land, unless authorized by the Roswell Field Office Manager.
2. Water will be provided yearlong to all drinking tubs located on public land, for wildlife purposes, when livestock are not in the pasture. Wildlife escape ladders will be installed in all drinkers.
3. Livestock drinking tubs will not exceed 18" in height.
4. The co-operator/contractor shall not use the pipeline route as a road for purposes other than routine maintenance as determined necessary by the Authorized Officer in consultation with the co-operator/contractor. The co-operator/contractor shall take whatever steps are necessary to ensure that the pipeline route is not used as a roadway.
5. Vegetation, soil, and rocks left as a result of construction or maintenance activity shall be randomly scattered over the project area and shall not be left in rows, piles, or berms, unless otherwise approved by the Authorized Officer. A berm shall be left over the ditch line to allow for settling back to grade.
6. The co-operator/contractor shall indemnify the United States against any liability for damage to life or property arising from the occupancy or use of public lands under this authorization.
7. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the co-operator/contractor or any person working on the co-operator/contractor's behalf, on public or Federal land shall be immediately reported to the authorized officer. The co-operator/contractor shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the Authorized Officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The co-operator/contractor shall be responsible for the cost of evaluation and any decision as to the proper mitigation measures will be made by the Authorized Officer after consulting with the co-operator/contractor.
8. The co-operator/contractor is hereby obligated to comply with procedures established in the Native American Grave Protection and Repatriation Act (NAGPRA) to protect such cultural items as human remains, associated funerary objects, sacred objects, and objects of cultural patrimony discovered inadvertently during the course of the implementation. In the event that any of the cultural items listed above are discovered during the course of project work, the proponent shall immediately halt the disturbance and contact the BLM within 24 hours for

instructions. The proponent or initiator of any project shall be held responsible for protecting, evaluating, reporting, excavating, treating, and disposing of these cultural items according to the procedures established by the BLM in consultation with Indian Tribes.

9. The co-operator/contractor shall be responsible for maintaining the site in a sanitary condition at all times; waste materials at those sites shall be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment.
10. The approval of the Permit/Agreement does not convey the right to prevent other lawful uses from occurring. The applicant/cooperator understands that other lawful users with proper authorizations.

## **FINAL DECISION RECORD**

### **Environmental Assessment No. NM-060-2004-116, Merritt, Jr. Fences Environmental Assessment No. NM-060-2004-117, Merritt, Jr. Pipeline Response to Protest**

On August 9, 2004, the Roswell Field Office of the Bureau of Land Management received protests of the Decision Records for these environmental assessments from Forest Guardians. The two protests are identical. The protests being timely, BLM has reviewed the points in the protests and offer the following responses.

#### *The Proposed Action Violates the National Environmental Policy Act*

*Statement – BLM has incorrectly analyzed the effects of the proposal for these improvements in two separate EAs.*

BLM does not believe it has incorrectly analyzed the effects of these proposed projects. The analogy of timber sales and roads does not apply in this case. While it true that one cannot have a timber sale without an access road, it is not necessarily true that either of these projects must be accompanied by the other project. In this situation, the fence project or the pipeline project can stand alone. Therefore, each project can be analyzed on it own merits.

Additionally, the protest presents no evidence, data or studies that would lead BLM to believe it has made an error in analysis in either specific or cumulative impacts.

*Statement – BLM has ignored the overall effects of livestock grazing.*

The purpose of the EA was not to analyze the impacts of livestock grazing but to analyze the impacts of constructing the range improvement projects. The impacts of authorizing grazing on this allotment have already been analyzed in environmental assessment, EA No. NM-060-1999-001. A copy of this document was sent to your organization.

Previous to this, the questions of whether or not the public lands within this allotment are suitable for grazing has already been analyzed in previous planning documents and carried forward by the 1997 Roswell Resource Management Plan (RMP) and environmental impact statement (EIS). The Rangeland Reform 94 EIS analyzed the impacts of a no-grazing alternative. The National Environmental Policy Act (NEPA) does not require the analyses of alternatives that would result in no appreciable differences in impacts. Livestock grazing at reduced levels would produce no appreciable difference in impacts.

Therefore, the question of the level of livestock grazing has already been analyzed and is not germane to this EA.

The protest presents no new specific evidence, data or studies that would lead BLM to believe it has made an error.

#### *The EA Fails to take a hard look required by NEPA*

The National Environmental Policy Act (NEPA) does not require the analyses of alternatives that would result in no appreciable differences in impacts. Livestock grazing at reduced levels would produce no appreciable difference in impacts.

*Statement – Livestock fences require a tremendous taxpayer investment for their installation and maintenance.*

The assertion of taxpayer expense is misleading. This fence and pipeline project is to be paid out of 8100 funds. These funds are 25 percent of collected grazing fees and paid by allotment holders. No funds supplied out of federal tax revenues are used for these types of projects.

*Statement – Fences are prone to damage, ineffective, unsightly and an obvious drawback to recreationists.*

These assertions are merely opinion. The protest presents no evidence, data or studies to back these claims.

*Statement – Fences can affect wildlife migration and can hurt or kill individual wildlife.*

The protest offers no specific evidence data or studies to support this claim.

### Conclusion

*Statement – BLM's proposed action violates NEPA.*

BLM disagrees with this statement and does not believe the protest has made its case.

Final Decision: Upon review of the EA and the points of this protest, it is my decision to authorize the construction of the fence and pipeline in the Merritt Jr. Allotment #63016, in the Roswell Field Office Area, New Mexico. The protection procedures for the proposed action are included in the Cooperative Agreement and are attached as stipulations. Any additional mitigation measures identified for the proposed action in the environmental impacts sections of the attached environmental assessment have been formulated into stipulation. This decision incorporated by reference the attached stipulations.

In addition to the addressee, this decision has been provided to:

New Mexico Department of Game & Fish  
c/o Roy Hayes  
1912 West Second  
Roswell, New Mexico 88201

Forest Guardians  
312 Montezuma Ave, Suite A  
Santa Fe, New Mexico 87501

Pursuant to the provisions of 43 CFR 4.21, 4.470 and 4160.4 you are allowed 30 days from the receipt of this Final Decision in which to file an appeal to the Field Office Manager and to those listed above for



the purpose of a hearing before an Administrative Law Judge. Your appeal must state clearly and concisely in writing the reason(s) why you think the final decision is in error.

To receive consideration for staying the implementation of this decision, you must specify how you would be harmed if the stay were not granted. If a petition for stay is not granted the decision will be put into effect following the 30-day appeal period. Appeals can be filed at the following address:

Field Office Manager  
Bureau of Land Management  
Roswell Field Office  
2909 West Second Street  
Roswell, NM 88201

In addition to filing at this address, those listed above must also be served copies of the appeal (43 CFR 4.470(a)).

/s/ T. R. Kreager  
T. R. Kreager  
Acting Field Manager

08/13/2004  
Date